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**SEP 20 2007**

**OFFICE OF PETITIONS**

ST. ONGE STEWARD JOHNSTON & REENS, LLC  
986 BEDFORD STREET  
STAMFORD CT 06905-5619

In re Application of  
Hans-Wulf Pfeiffer  
Application No. 09/929,267  
Filed: August 14, 2001  
Attorney Docket No. 03466-P0001B

: DECISION ON PETITION  
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### CORRECTED DECISION

This is a decision on the petition filed March 23, 2007 under 37 CFR 1.137(b)<sup>1</sup> to revive the above-identified application. The decision on petition mailed September 17, 2007 is hereby vacated.

The petition under 37 CFR 1.137 (b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned as a result of petitioner's failure to file a proper appeal brief within the time period provided in 37 CFR 1.192(a). A Notice of Appeal was filed July 18, 2005. On July 1, 2005, an appeal brief was filed. On August 25, 2005, a Notification of Non-Compliance with 37 CFR 1.192 (c) was mailed. In response, a Supplemental Appeal Brief was filed October 27, 2005. On December 13, 2005 a second Notification of Non-Compliance with 37 CFR 1.192 (c) was mailed and in response another Appeal Brief was filed on December 27, 2005. A third Notification of Non-Compliance with 37 CFR 1.192 (c) was mailed on February 15, 2006. No response having been filed, this application became abandoned and in response to the abandonment, a petition to revive and Substitute Appeal Brief were

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<sup>1</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

filed. The petition was granted on May 22, 2006 however, a Notification of Non-Compliant Appeal Brief was mailed June 7, 2006. The Substitute Appeal Brief filed July 10, 2006, in response thereof, was followed by yet another Notification of Non-Compliant Appeal Brief on September 13, 2006. After the filing of a Substitute Appeal Brief and extension of time on October 6, 2006, A Notification of Non-Compliant Appeal Brief was mailed January 8, 2007. No response having been timely filed, the application became abandoned.

Comes now petitioner with the instant petition to revive and an Substitute Appeal Brief under 37 CFR 41.37.

The Examiner of record has indicated that the Substitute Appeal Brief filed March 23, 2007 is not in compliance with 37 CFR 41.317(c)(1)(ix). Thus, the petition does not satisfy requirement (1) above.

A courtesy copy of the Notification of Non-Compliant Appeal Brief is included signed by the Examiner of record is included. Petitioner must submit a proper Substitute Appeal Brief under 37 CFR 41.37 with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

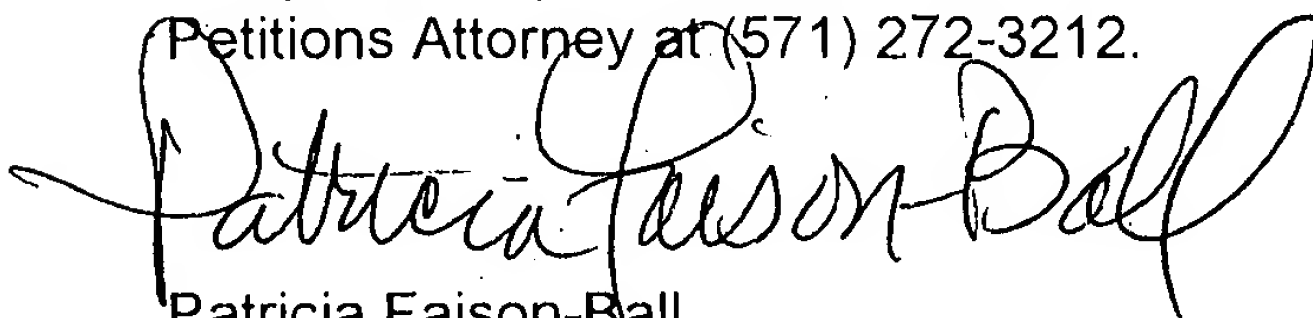
Petitioner is advised that the decision mailed September 17, 2007 is vacated and the application remains in an abandoned status.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

By FAX: (571) 273-8300  
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

ATTACHMENT: Courtesy Copy of Notification of Non-Compliant Appeal Brief

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/929,267

Applicant(s)

PFEIFFER, HANS-WULF

Examiner

John Hoffmann

Art Unit

1731

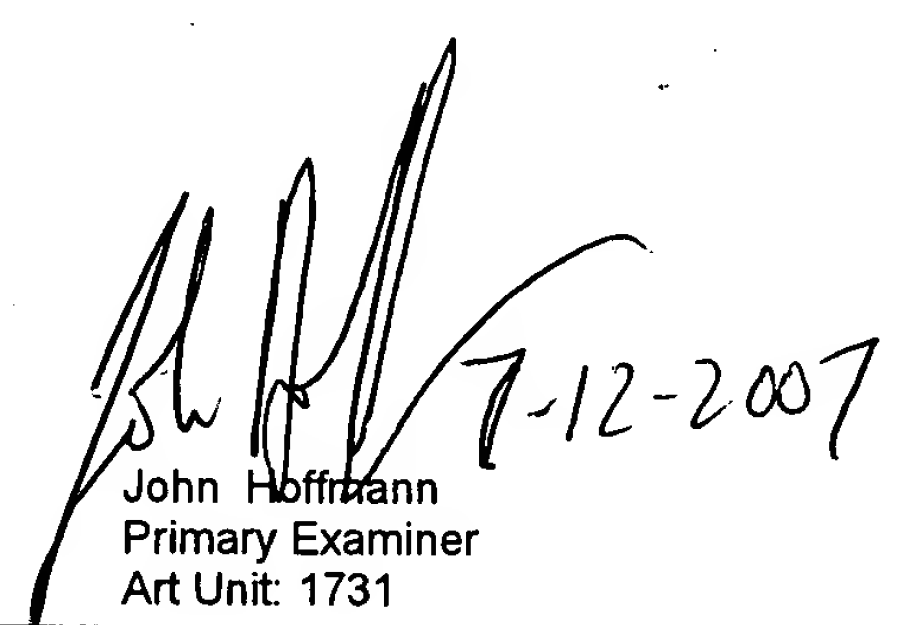
**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 23 March 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

At least the following: Exhibit A copy is lacking.

  
John Hoffmann  
Primary Examiner  
Art Unit: 1731